

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MELINDA and MARK LOE,
et al.,

Plaintiffs,

v.

WILLIE JETT, *et al.*,

Defendants.

Civil No. 0:23-cv-01527-NEB-JFD

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs respectfully submit this notice regarding *Darren Patterson Christian Academy v. Roy*, No. 1:23-cv-1557, 2025 WL 700268 (D. Colo. Feb. 24, 2025) (filed as Exhibit 1). There, Colorado prohibited any schools that based employment or admissions decisions “on the basis of religion, gender, sexual orientation, or gender identity” from participating in the State’s universal preschool program. *Id.* at *1. In 2023, the District of Colorado preliminarily enjoined the policy as likely violating the Free Exercise Clause. *See Darren Patterson Christian Academy v. Roy*, 699 F. Supp. 3d 1163 (D. Colo. 2023); *see also* ECF No. 118 at 44-45 (citing *Darren Patterson*). In February 2025, the court made that preliminary injunction permanent. *See Darren Patterson*, 2025 WL 700268 at *5-6.

The court first reaffirmed that the plaintiff school had standing to challenge Colorado’s law. *See id.* at *4. Then the court held that Colorado’s law was not generally applicable (1) because it “allows categorical

exemptions from its admission policies” for some preschools that wanted to “reserve seats for members of the school’s ‘congregation,’” and (2) because it gave the Department of Education authority “to grant individualized exemptions from the quality standards” governing the program. *Id.* at *5.

Colorado’s law also failed strict scrutiny. While “[a]nti-discrimination principles no doubt serve important purposes,” Colorado’s “broadly formulated” interest in nondiscrimination was insufficient to show “why [Colorado had] a compelling interest in ‘denying an exception’ to Plaintiff.” *Id.* at *6 (quoting *Fulton v. City of Philadelphia*, 593 U.S. 522, 542 (2021)). Even if Colorado’s interests were compelling, its law was not narrowly tailored to achieve that interest because it granted exemptions to some institutions in a way that undermined the State’s asserted interests. *See id.*

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Respectfully submitted,

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